

SECTION 1

Collections Standards





SECTION 1**MICHIGAN TRIAL COURT COLLECTIONS STANDARDS**

**Section 1
Collections Standards**

1.1	Definitions and Concepts	7
1.2	Assessment	8
1.3	Collections Administration	11
1.4	Information Systems	15
1.5	Enforcement	17



1.1 Definitions and Concepts

The Michigan Trial Court Collections Standards represent a uniform method of managing and collecting money owed to the court. These standards are built upon certain terms and concepts which also must be uniformly applied. The following terms will be used throughout these standards:

- **Debt**

Debts are fines, fees, costs, assessments, or reimbursements ordered by and payable to the court² which arise from the adjudication of a case or are otherwise provided for by statute. Each debt is associated with only one case, but a case can result in multiple debts (i.e., a fine, a fee, court costs, etc.). Each debt has a status (see below).

- **Account**

An account is composed of an individual's or legal entity's court debts. Each account has a status, which is determined by the status of the account's component debts (see below).

- **Receivable**

A debt which has not been written off.

- **Discharge or waiver**

A judicial act to forgive a debt, often upon the fulfillment of another condition of a sentence.

1.1.1 Debt Status

In describing debts, we must be able to refer to their status. A debt's status is determined by the extent to which the debt has been satisfied in a timely manner. A debt may be either of the following:

- **Owed**

A debt which has been imposed, but its due date has not been exceeded.

- **Past due**

A debt which remains unsatisfied after its due date. Past due debt may be:

²Although the definition of debt does not include other amounts owed, such as restitution, the concepts embedded in these standards are applicable to all amounts ordered to be paid.



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

- **Active**

A debt for which the court intends to undertake collection efforts.

- **Inactive**

A debt for which a court has decided to temporarily forgo collection activity.

- **Written off**

A debt for which a court has decided to indefinitely forgo collection activity.

1.1.2. Account Status

Like a debt, an account can also be described by its status. An account's status is determined solely by the status of the debts which comprise it. An account may be:

- **Current**

An account is current if none of its debts are past due.

- **Delinquent**

An account is delinquent if any of its debts are past due.

1.2 ASSESSMENT

Sound practices employed during the assessment phase are critical to achieving high levels of compliance with monetary sanctions. Efforts to collect money owed to the court after the assessment phase are time consuming and costly. By creating the expectation that litigants will be required to fulfill their financial obligations, the court increases the probability of successful compliance and diminishes the need for subsequent enforcement action.

1. Courts should instill in the public the expectation that payment is due at the time of assessment except when otherwise allowed by a judge or judicial officer for good cause.

Given the option, most individuals will defer payment of court obligations regardless of their financial situation. Courts should notify litigants that extensions are granted only on the basis of need. Courts should work with members of the local bar to notify clients prior to assessment of the court's expectation of prompt payment. Requests for time to pay should be initiated by the litigant and not the court. (Also see Standard 1.3, item 7. relating to the ability of staff to grant extensions or installment arrangements.)



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

2. Financial penalties should be assessed keeping in mind the litigant's financial situation and ability to pay.

In situations where the court has discretion in setting the amount of a financial penalty or reimbursement, the total penalty should be consistent with both the nature of the action and the individual's ability to pay. Reasonable financial sanctions have a better chance of being enforced than those that are assessed without consideration to the litigant's financial circumstances.

3. The court should require a litigant to provide financial information to support the need for deferred payment.

Prior to granting a request for time to pay, or as a condition of the request, the court should require the litigant to provide a sworn statement of financial status. The statement should be made in writing or on the record. The court should also require additional information that will assist the court in the event of payment default. The litigant should be notified that the information may be verified by the court.

4. The court should estimate a defendant's financial situation as part of the pre-sentence investigation report.

Courts who determine a defendant's ability to pay court assessments report greater success in collecting those assessments. For judges to be able to assess penalties appropriately, they must have information about the defendant's financial status prior to sentencing. Probation staff should review a defendant's financial situation as part of their pre-sentence investigations, and include their assessment of the defendant's ability to pay.

5. When installment payments are allowed, litigants should be notified at the time of assessment of the amount due and due dates.

The court should ensure that before a litigant leaves the court they understand the terms of their payment plan. A payment plan should be printed and reviewed with the litigant. It is advisable to collect a portion of the amount on the day of sentencing or judgment. In cases where time to pay is granted, a one-time deferral is preferred to a multiple-payment installment plan.

6. Payment schedules should be as short as possible and the number of installments kept to a minimum.

The likelihood of payment default increases with the complexity and length of the installment period. For simplicity of management, and to reduce the probability of noncompliance, payments should be set at regular intervals and the total period as short as possible for those cases in which there is a demonstrated need for time to pay. If time to pay is granted for financial penalties and reimbursements of \$100 or less, only one payment due date should be



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

allowed. Courts should also analyze the amount it costs to collect and process an installment payment and not permit installment plans with payments below this amount. This will ensure that the court is not spending more to collect a payment than it is receiving.

7. When financial penalties are assessed and payment is deferred, appropriate conditions should be imposed and suspended pending compliance.

The court should impose an additional suspended sanction in conjunction with large financial judgments to convey the importance of compliance and the expectation that the court will enforce the judgment. A suspended sanction should also be reasonable and one that will actually be carried out. For instance, if a suspended jail condition is imposed but space is not available to house offenders, the sanction may be meaningless.

8. The court should inform litigants of the consequences for nonpayment.

When payment obligations are deferred, litigants should be advised on the record or in writing of the consequences of nonpayment. This information can be built into payment schedule forms, but should also be brought to the attention of the litigant at the time of assessment. The court should make it clear to the litigant that enforcement action will be taken. The litigant should also be advised of what he/she must do if the payment schedule cannot be met.

9. Courts should provide public notice of payment policies and fixed fine schedules.

In situations where the court has fixed penalties and reimbursements, these amounts should be posted and/or included in court documents, along with the consequences of noncompliance. Advance notification will reduce the number of inquiries to staff for this information and make litigants more aware of the consequences of noncompliance.

10. Filing fees should be collected at the time of filing.

Filing fees may be waived or deferred upon proper showing of indigence. Courts should otherwise require payment of fees as required by statute before accepting filings.



1.3 COLLECTIONS ADMINISTRATION

Chief judges, clerks, and administrators should take a leadership role in collections by adopting policies and procedures for judicial officers and staff to follow, providing training to staff involved in the collections process, evaluating collections activities to measure their effectiveness, and coordinating collections efforts with other courts and agencies.

1. The chief judge should designate an individual, or individuals, who will have primary responsibility for collections administration and management.

Effective collections management requires oversight and planning. Since various individuals in the court have responsibility for portions of the collection process, it is essential that the process be coordinated.

2. Written collection policies should be prepared and followed.

Written collection policies in conformity with these standards should be developed and adhered to. These policies should also be circulated to all employees involved in the collection effort and included in the training program. Policies should be revised as needed to reflect changes in statute and practice.

3. Assessment and payment information must be entered into automated systems promptly.

The success of an effective collections program relies upon accurate, up-to-date information. Whether using an automated case management system or not, assessments should be entered into the court's records on the same day they are assessed. Similarly, records must be updated on the same day payments are made.

4. The crediting of payments must be in accordance with statute.

When payments are accepted by the court, amounts should be credited as required by statute (see MCL 775.22; 600.877). Where the court has discretion, policies should be established and systems designed to credit funds in a consistent manner.

5. Unless otherwise directed by statute, court rule, regulation, payor request, or judicial order, partial payments should be applied to the debt which is the most past due.

In situations where an individual has multiple debts owed to the court, payments will generally be applied to the oldest debt first. In some instances, the payor may wish payments to be applied in a different order to lift a license suspension or other sanction. The court may also direct that certain debt, such as restitution, be credited first.



6. The roles and responsibilities of various staff members in the collections process should be clearly identified in written policy.

Among the positions that may be involved with collections are:

- cashiers
- compliance or collections officers
- bookkeepers or accountants
- probation staff
- deputy clerks
- quasi-judicial officers
- information systems staff
- judges
- court administrators or clerks

The clear designation of staff responsibilities will help to ensure that funds are collected and accounted for in keeping with sound accounting practices, and that collection efforts are coordinated from assessment through enforcement.

7. Any authority for court support staff to grant extensions and installment payments, and the procedures to be followed in exercising this authority, should be issued by the court in writing.

In some situations it will be appropriate and expedient for staff to handle requests for extensions and installment payments. In these situations staff should have clear guidance as to the extent of their authority and responsibility so that these matters are handled fairly and consistently.

8. Individuals who are granted time to pay should be required to provide the court with any additional information necessary to ensure effective enforcement.

Enforcement action is most effective when the court has complete and accurate personal data (e.g., full name, social security number), employment, and bank account information. This information should be collected before the litigant leaves court, with the litigant required to notify the court of any changes during the course of the payment plan.

9. The court should re-verify the litigant's address information whenever a contact is made with the court.

One of the more significant obstacles to collections enforcement is maintaining contact with payors. The lack of current address information hinders notification and follow-up by the court. Address information should be updated whenever possible.



10. Courts should develop training programs for staff responsible for collections.

Internal training should be available for collections staff. Training should provide staff with information they need to perform their respective duties but also provide perspective on the broader picture of collections.

11. Service providers and other agencies which come into contact with litigants should be informed of court policies regarding the imposition of financial sanctions and their enforcement.

In some instances representatives of outside agencies, such as social service providers and law enforcement, may be providing information to litigants regarding reimbursement policies or fine schedules. Courts should ensure that these agencies are provided with current information. The court may also request that these agencies direct all inquiries regarding financial sanctions to court staff.

12. Bonds should be applied as soon as allowed by statute and court rule.

Reports and tickler systems can be developed to notify court staff when bonds are eligible for conversion to a payor's obligations.

13. Courts should establish write-off procedures in accordance with the SCAO Model Policy for writing off uncollectible debts.

Studies have shown that the collection of debts becomes increasingly difficult with the passage of time. Courts should establish procedures for identifying uncollectible debts. Writing off debts which have been identified as uncollectible helps the court present an accurate depiction of its receivables. This process does not waive or forgive the debt, but is an administrative tool to help the court focus its resources on those accounts which have the greatest likelihood of collection. The SCAO Model Policy is provided as Appendix A1 to assist courts in this area. Age alone should not determine whether a debt is written off. Courts may choose to review debts that are past a certain age to consider them for write-off, but the decision to write a debt off should be done on a case by case basis, considering the circumstances of the debt and the payor.

14. Procedures should be in place for periodic review of accounts.

Manual and computer records should be reviewed on a regular basis to ensure that account records are accurate and up-to-date.



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

- 15. When a financial obligation is waived or discharged by the court, the record should reflect the reason for waiver or discharge and the removal of the obligation from the court's accounts.**

The waiver or discharge of any financial obligation should be accompanied by documentation or court order indicating the reason for the waiver and contain the signature of the appropriate judicial officer. These procedures will reduce the opportunity for embezzlement of funds or unauthorized removal of such amounts from the court's ledger. These amounts should be immediately removed from the court's accounts records to reflect the proper balance and prevent the accidental imposition of sanctions for noncompliance.

- 16. Court policy should require that payments be accepted only by employees authorized and trained to perform payment functions.**

Sound accounting practices require that staff who accept and apply payments be authorized and adequately trained. Staff members who are not responsible for completing payment transactions in the court's computer or manual system, such as probation staff and quasi-judicial officers, should not accept payments to be passed on to other staff for recording or entry. (See Section 6-05 of the Michigan Court Administration Reference Guide for proper accounting and cash management procedures.)

- 17. The court should be prepared to take payment in a variety of accepted forms and make the payment process as simple as possible.**

Courts should keep the payment process as easy as possible for payors so that there are no excuses for missing a payment or failing to pay at assessment. Allowable payment types include cash, checks, credit and debit cards, commercial checks, and money orders. Courts should also consider providing payment drop boxes, preprinted envelopes, automated teller machines, and internet payment mechanisms. Clerical procedures should be designed to make it easy and convenient for payors to make payments. Courts may impose more restrictive payment policies for bonds or in situations where litigants may attempt to pay with a non-sufficient funds check.

- 18. Courts may accept payment of financial obligations from a third party, unless otherwise ordered in an individual case.**

Courts should be prepared to accept payments from third parties as a convenience to payors, unless the court specifically requires the appearance of a payor to make a payment.



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

- 19. Whenever possible, courts with a common funding unit or in geographic proximity to each other should coordinate collections activities. Courts should also explore cooperative arrangements with other funding unit departments.**

Costs may prohibit smaller courts or those with limited resources from undertaking some collections activities. Courts are encouraged to consider cooperative ventures with other courts or funding unit agencies to enforce collections. Examples include sharing the services of a collections officer, developing integrated computer systems, and working with local law enforcement agencies on enforcement initiatives.

- 20. Courts considering new collection techniques should be prepared to evaluate the effectiveness of their efforts.**

Management decisions regarding collection processes, special collections programs, and the use of third party vendors should be supported by evaluation data that measure the impact of these activities, and whenever possible are justified by cost/benefit analysis. Courts should keep in mind that such analysis should not be limited strictly to financial benefits, but should also include intangible benefits such as improved intergovernmental relations or increased respect for the court.

Some questions the court should be able to answer include:

- What is the impact of various collection methods on payment rates?
- Do compliance rates vary with offender or offense characteristics?
- What are the costs compared to return for various collection methods?

- 21. Courts should evaluate collection rates using meaningful formulas for determining the rate of collections during a given time period.**

Basic to any evaluation of collection activities is a determination of the percentage of cases and/or amounts collected during a given time period; typically monthly, quarterly, or annual reports are produced. See Appendix A2 for calculation of the collection rate to be reported to SCAO.

1.4 INFORMATION SYSTEMS

Effective collections programs depend on reliable and timely data. In order to function effectively, minimum data and functionality standards must be met and financial data entered as soon as possible. Information systems, whether computerized or manual, are the backbone of collections enforcement.



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

1. The automated information system should include minimum data elements identified in Appendix A3.

Required data elements are minimum requirements for accurate and timely reporting and monitoring of financial accounts. **Optional** data elements are additional information that the courts may need to enforce deferred or scheduled payments.

2. Information systems used to manage accounts should be able to:

- 1) Identify all receivables in a ledger and cross-reference them to individual case records. Determine the balance of all debts by status.
- 2) Determine the age of all debts and group them by age.
- 3) Identify any account which is delinquent and report this information as needed to court staff and agencies responsible for collections enforcement.
- 4) Set up and monitor payment schedules, including due dates and amounts due on each date.
- 5) Monitor individual and aggregate account balances.
- 6) Inquire and receive information on all unpaid debts for a particular payor.
- 7) Make timely and accurate entries into the accounting and/or receivable systems.
- 8) Add late fees and penalties to certain past due debts.
- 9) Share information between case management and probation systems to ensure that both sides are aware when amounts which have been ordered as a condition of probation are past due.
- 10) Assist collections staff in identifying trends in payment.

These functions requirements are essential for the court to identify and account for money which is due, identify delinquent accounts, and take necessary enforcement action. Ideally these functions will be part of an automated and integrated case management and financial system.

3. Automated courts should have the capability to generate the following reports:

- 1) financial obligations ordered but not paid



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

- 2) past due debts
- 3) for a specified period of time, debts which are:
 - a) written off
 - b) waived or discharged
 - c) paid
- 4) receivables aging report
- 5) reports needed to report to other agencies

Automated reports provide the court with information needed for tracking compliance and evaluating collection rates. Ad hoc query capability is increasingly available as a feature of automated systems. Courts are encouraged to take advantage of this feature to develop customized reports that support their specific enforcement and evaluation objectives. System providers should be encouraged to add the above reports if they do not currently have the ability to generate them.

4. **Payment information should be promptly entered into the court database, preferably on a real-time basis, but not more than one working day after the transaction.**

To ensure accurate monitoring and enforcement of accounts it is essential that payments be recorded in the court's database at the earliest opportunity. This information should be linked to the case management system.

5. **The waiver or discharge of financial obligations should be promptly entered into the financial data base.**

In order to properly evaluate collection rates and accurately report receivables, the information system should be updated to reflect all amounts which are no longer considered due and owing.

1.5 ENFORCEMENT

A wide arsenal of tools is available to the courts to enforce financial judgments. Collections research has demonstrated that enforcement action which is applied in a consistent and timely manner produces the best compliance. The type of enforcement action that is most appropriate depends on a variety of factors. In many cases the least costly and least complicated methods have the potential to yield the best returns. Courts are encouraged to replicate successful programs used in other jurisdictions and be prepared to evaluate their own efforts to arrive at the right mix of responses.



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

1. **Courts should promptly impose mandatory penalties and sanctions for noncompliance with judgments as required by law.**

Periodic internal audits will help ensure that systems are working properly and that staff are following statutory and court rule requirements. These requirements should be included in the court's collections policy and covered in training programs for collections staff.

2. **Courts should promptly notify payors of delinquency.**

Prompt notification conveys to the payor that the court is serious about compliance and reduces the chance that the court will lose contact. With good information systems in place court staff will have delinquency information immediately available and can take appropriate measures to notify the payor.

3. **Courts should establish a time standard for initiating enforcement action when a debt becomes past due.**

When a payment obligation has been missed it may be appropriate to briefly delay enforcement action to allow for delays in mail or internal processing. A consistent time standard should be adopted by the court that allows for these variables, but is not so lengthy as to diminish the effectiveness of enforcement. A delay of not more than seven (7) days is recommended.

4. **When the court establishes that an individual is financially unable to meet all or part of their financial obligation after making a good faith effort to do so, the court may impose an alternative sanction as allowed by law.**

In certain circumstances a debt will not be collectable due to changes in the payor's financial circumstances. In these situations, the court may choose to impose an alternative sentence such as community service. The exception is restitution, which cannot be waived by the court (see MCL 780.766; 780.794). When an alternative sanction replaces the financial sanction, the original obligation should be removed from the court's accounts in the same manner as debts that are waived or discharged.

5. **Progressive sanctions should be applied by the court for noncompliance.**

A number of studies have demonstrated that cost-effective collection programs feature a prompt and graduated response to noncompliance. In many instances, the least coercive methods, such as sending post card notices, are not only the least expensive but also the most effective in terms of response. Examples of graduated responses (from least to most coercive) include:



SECTION 1

MICHIGAN TRIAL COURT COLLECTIONS STANDARDS

- noticing
- phone contact
- reporting to credit agency
- show cause hearing
- involuntary wage/bank account assignment
- civil execution
- bench warrant

6. A variety of responses should be employed to compel compliance and should be appropriate to the circumstances of the noncompliance.

Studies have shown that the most effective collections programs employ a variety of collection methods that are appropriate to the type of debt being collected, the offender population, and the information available to the court. Courts should evaluate various collection methods to develop a mix of responses that are most efficient and effective.

7. Individuals should be notified that failure to pay a scheduled amount on the due date will require their appearance at court to offer an explanation.

The court should anticipate that some individuals will not be able to make payments on the scheduled due date and provide a mechanism for the payor to address the court as to their reason for noncompliance. A payor should be required to contact court staff before a payment plan is modified. Failure to do so should initiate collections action and the imposition of additional penalties.

8. Penalties for noncompliance should be imposed uniformly.

Although courts have discretion in using a variety of responses, these methods should be applied consistently and in accordance with the law.

9. Courts should consider the feasibility of third party collection enforcement, including private companies, the Department of Treasury, and other funding unit departments.

In some instances third party agencies may be effective in collecting outstanding debts. Courts will need to evaluate the costs of third party intervention against the projected collections to determine the feasibility of using these services, including changes in procedures and internal systems. When considering private vendors courts should check references and independently evaluate the vendor's collection experience.



SECTION 1**MICHIGAN TRIAL COURT COLLECTIONS STANDARDS**

10. Courts should develop systems for monitoring the incarceration status of criminal defendants when financial sanctions are imposed.

When a defendant is incarcerated and a financial penalty imposed, or the defendant is incarcerated for other reasons, the defendant's debts may be moved to inactive status, and collection activities suspended until release. Systems should be in place to determine when the debt should be reactivated.

11. When a payor is in bankruptcy proceedings, courts should be prepared to withhold enforcement action and monitor the status of the bankruptcy case.

When a litigant notifies the court that they have filed for bankruptcy, the court may be required to suspend collection actions. In such a case, the payor's debts should be considered inactive. The bankruptcy proceedings should be monitored, and the court should return the debt to active status or discharge it, depending on the outcome.